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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA
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10 The Church of the Eagle and the Condor, et al,
11 Plaintiffs,
12 v.
13 Merrick Garland, Attorney General of the
United States, et al,
14 Defendants.

Case No.: CV-22-01004-PHX-SRB

**PLAINTIFFS' FURTHER RESPONSE TO
ORDER**

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16 Plaintiffs in this action, The Church of the Eagle and the Condor, et al, provide the following
17 further response to the Order of this Court dated August 18, 2022, entered in the Docket as # 15.

18 Plaintiffs have completed service pursuant to the requirements of FRCP 4(i) and the specific
19 instructions for service by defendants Merrick Garland, Attorney General of the United States, Alejandro
20 Mayorkas, Secretary, U.S. Department of Homeland Security, and Christopher Magnus, Commissioner,
21 U.S. Customs and Border Protection whose offices, due to COVID, all required service be made by
22 certified mail.

23 Copies of the Complaint and Summonses for all named defendants were provided to the process
24 server in a timely manner. On or about June 16, 2022, all named defendants, with the exception of the
25 United States Attorney for the District of Arizona, were served. Immediately upon the Court alerting
26 Plaintiffs that service pursuant to FRCP 4(i) may not have been completed, Plaintiffs effectuated service
27 on the United States Attorney for the District of Arizona as well as serving an additional copy of the
28 Complaint and Summonses on the office of the Attorney General of the United States.

1 All Affidavits of Service have been filed with this court. Plaintiffs have been diligent in their
2 efforts to comply with the requirements of FRCP 4(i) and FRCP 4(m), and have complied with FRCP
3 4(m) in that all defendants have been served within the 90-day period proscribed by FRCP 4(m).

4 None of the defendants in this case are prejudiced by a delay in serving the pleadings on the
5 United States Attorney for the District of Arizona. The United States Attorney General was served on
6 or about June 16, 2022, and it can be presumed that the United States Attorney for the District of
7 Arizona would have also received notice of the Complaint at that time. There is no statute of limitations
8 bar. Dismissing this case and requiring Plaintiffs to re-file would not serve judicial economy.
9 Additionally it is the policy of the law that, “(w)henver it is reasonably possible, cases should be
10 decided upon their merits.” *Pena v. Seguros La Comercial, S.A.* 770 F.2d 811, 814. (9th Cir. 1985).

11 Plaintiffs respectfully request this Court alert them if any other deficiencies exist, and allow
12 Plaintiffs time to cure them. Otherwise, Plaintiffs respectfully request this Court allow the litigants to
13 proceed with this action.

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15 Dated: August 24, 2022

Respectfully submitted,

16 LAW OFFICE OF JACK SILVER

17 By: s/ Jack Silver
18 Jack Silver
19 Attorney for Plaintiffs
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